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April 1, 2022

Hon. Gregory H. Woods
United States District Court
Southern District of New York
Daniel Patrick Moynihan United States Courthouse
500 Pearl Street, Room 2260
New York, NY 10007

Re: Dismissal of Promotion In Motion, Inc. v. Tate & Lyle Solutions USA LLC,
Case 1:22-cv-02499-GHW

Dear Judge Woods:

This firm represents Plaintiff Promotion In Motion, Inc. d/b/a PIM Brands, Inc. (“PIM” or “Plaintiff”) in the above matter. On March 24, 2022, PIM filed a complaint for breach of contract against Primary Products Ingredients Americas LLC (“Primary Products”) because PIM mistakenly understood that Primary Products was the successor to Tate & Lyle Ingredients Americas LLC – PIM’s counterparty to the breached contract – after the recent broader Tate & Lyle restructuring.

On March 25, 2022, I spoke with Donald Cole, Senior Counsel for Tate & Lyle, and he explained that the relevant contract with PIM had been assigned to Tate & Lyle Solutions USA LLC (“T&L”). I informed Mr. Cole that PIM would be refiling the complaint against T&L in the Southern District of New York on March 28, 2020. At that time, Mr. Cole did not inform me that there may be an issue with federal diversity, and PIM did in fact bring a breach of contract action against T&L in this Court on March 28.

On March 30, 2022, I spoke with Courtney Peterson of Bryan Cave Leighton Paisner LLP, and she informed me that Bryan Cave would be representing T&L in this dispute, and that T&L had a member that was incorporated in Delaware, thus destroying federal diversity. Accordingly, PIM is in the process of refiling a breach of contract action against T&L in New York State Court,

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and we ask this Court to please dismiss without prejudice the two pending matters that PIM brought against Primary Products and T&L in the Southern District of New York. PIM is concerned that it will be unfairly prejudiced if it voluntarily dismisses the two matters pursuant to Federal Rule of Civil Procedure Rule 41(a), because under that rule a second voluntary dismissal “operates as an adjudication on the merits.”

We understand that the Court scheduled a remote conference today at 4:00 p.m. to discuss T&L’s letter from yesterday regarding diversity jurisdiction. We do not believe that the conference is necessary given PIM’s decision to refile this breach of contract action in New York State Court, but we of course remain available to attend the conference if the Court wishes to discuss the issue of diversity or PIM’s request that the Court dismiss without prejudice the two actions that PIM brought against Primary Products and T&L in this Court.

Thank you for your attention to this matter.

Sincerely yours,

/s/ Maura Miller

Maura E. Miller